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C O N F I D E N T I A L SECTION 01 OF 02 BRASILIA 001076

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SUBJECT: BRAZIL TO GET A NEW SUPREME COURT CHIEF JUSTICE

REF: A. 03 BRASILIA 2875

[1](#)B. 03 BRASILIA 3342

Classified By: POLOFF RICHARD REITER, FOR 1.4B AND D.

[1](#)1. (C) SUMMARY. Mauricio Correa, Chief Justice of Brazil's Supreme Federal Tribunal, will step down May 9 when he reaches the mandatory retirement age of 70. This will be a great relief to the Lula administration because Correa has been a frequent and personal critic of President Lula and Chief of Staff Jose Dirceu as well as of many of the administration's policies and reforms. Correa, a former Senator, never really stopped his politicking, and he is expected to run for office in 2006. Correa's departure allows Lula to nominate his fourth Supreme Court justice. The post of Chief Justice rotates every two years, and the new Chief will be Nelson Jobim, a much less inflammatory figure. The second-highest court, the Supreme Justice Court, also has a new Chief Justice who should likewise be less acerbic than his predecessor. Correa's retirement opens the way for a long-awaited judicial reform bill to become law. END SUMMARY.

MAURICIO CORREA DOES NOT GO GENTLE

[1](#)2. (C) Mauricio Correa, Chief Justice of Brazil's highest court, the Supreme Federal Tribunal (STF), reaches the mandatory retirement age of 70 on May 9, and his departure will be a great relief to the Lula administration. Since assuming the top post in June 2003, Correa has been an unrelenting and bitter critic of Lula, his top advisors, and GoB policies. In September 2003, Correa unleashed surprisingly personal vitriol against the administration in a widely-read VEJA magazine interview (ref A), calling Lula dishonest and saying that the authority granted to Chief of Staff Jose Dirceu was "Stalinist". Lately, Correa has turned his gunsights on the administration's bills to reform the pension system and the judiciary. In the eyes of many, Correa symbolizes all that is wrong with the Brazilian judiciary: tetchy, turf-conscious, and corporatist. It was Correa who threatened to declare the administration's pension reform bill unconstitutional if it reduced judges' pensions, and Correa who blasted the October 2003 visit of a UN Human Rights Rapporteur (ref B) who criticized failures in the Brazilian judiciary.

[1](#)3. (C) Mauricio Correa was elected a federal Senator from Brasilia in 1986 as a member of the PDT party, and in 1992-1994 he was Justice Minister to President Itamar Franco. Franco nominated him to the high court in 1994. It is widely assumed (and Correa has not denied) that he will run for Governor or Senator from the Federal District of Brasilia in the 2006 elections. His eagerness to take partisan stances on so many political issues over the past year may well be his way of reestablishing his political profile in advance of his 2006 campaign. This week was no exception. On his farewell tour, Correa spoke to a group of judges in Rio de Janeiro on May 3 and slammed the "slackness" of the Lula administration for endangering democratic institutions.

NEW CHIEF JUSTICE NELSON JOBIM

[1](#)4. (C) The new Chief Justice will be Nelson Jobim, currently the Vice-Chief. Jobim, 58, is from the southern state of Rio Grande do Sul where early in his career he practiced and taught law. In 1987, as a member of the PMDB party, he was elected Federal Deputy and served as sponsor ("relator") of key Congressional committees drafting the 1988 federal Constitution. Last year, he raised eyebrows when he revealed that five articles of the Constitution were never properly approved (his book on the Constitutional Assembly is due out this year). He served a second term in Congress (1991-1995) before President Cardoso named him Justice Minister (1995-1997) and then to the Supreme Federal Tribunal in 1997. In 2001, he rotated into a two-year term as Chief of the Supreme Electoral Tribunal (an ad hoc body always presided over by an STF judge). In that post, he did an excellent job administering the October 2002 national elections. Jobim has clashed with Correa over the past year, sometimes criticizing and sometimes trying to walk back the latter's acid comments. Jobim is a proponent of judicial reform and, not surprisingly, it was he who revealed last year that the STF issues an incredible average of 85 rulings per day.

#### NEW HIGH COURT JUDGE

15. (C) President Lula has made no announcement yet, but it is expected that he will name a well-known University of Sao Paulo law professor, Eros Roberto Grau, 62, to fill the vacancy on the bench. The STF has eleven members, and this will be Lula's fourth nomination. Grau is a specialist in economic and public law and is personally close to both Judge Jobim and President Lula. He is also known to be supportive of Lula's views on judicial reform and agrarian reform. The judicial reform bill, now pending in the Senate, includes two highly controversial elements: the first would create an "external control" body --an oversight commission for the judiciary-- while the second would institute some form of precedence (not now in use in Brazil), whereby lower courts must follow certain decisions made by higher courts.

#### SECOND COURT ALSO HAS NEW CHIEF

16. (C) The STF is the highest of Brazil's courts, but the second highest court, the 33-member Supreme Justice Tribunal (STJ) also has a new Chief Justice. Edson Vidigal, 59, rotated into a two-year term as Chief of the STJ on April 5. Vidigal is also supportive of the judicial reform bill, saying that it should bring much needed "agility and transparency" to the judiciary. Just as Judge Jobim will be less combative than Mauricio Correa, Vidigal is likely to be less acerbic than his predecessor at the STJ, Nilson Naves. (Naves remains on the STJ but rotated out of the Chief Justice slot.) Vidigal was a town councilman in his home state of Maranhao in 1964 when he was jailed by the military regime. With the 1979 political amnesty, he was elected Federal Deputy and in 1987 was appointed to the federal bench by then-President Jose Sarney (now Senate majority leader). Sarney is from Maranhao and is the political godfather of many of that state's public figures.

#### COMMENT - STEPS IN THE RIGHT DIRECTION

17. (C) Brazil's sclerotic judiciary is in dire need of reform, but the thin-skinned Judge Mauricio Correa fought tooth and nail against any type of change while accusing reform supporters of infringing on the independence of the judiciary. The reform bill now in the Senate is not sweeping, but it could bring much-needed administrative improvement in the form of a precedent system to speed decisions and make them more uniform. The proposed oversight commission is really a reflection of the judiciary's longstanding reluctance to police itself, remove corrupt judges, and become more responsive to the country's needs. Like the retirement of Judge Correa, the reform bill will not resolve every shortcoming of the Brazilian judiciary, but it is a step in the right direction. Incoming Chief Justice Nelson Jobim will likely continue to support reforms and help to end a year of squabbling among the three branches.

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